III. REMARKS

Applicants thank the Examiner for the withdrawal of the rejection of claim 2 under 35 U.S.C. § 112, second paragraph. Final Action at page 16.

Claims 2 and 4 to 7 are pending. Claims 2 and 4 to 7 have been amended. Support for the claims amendments can be found throughout the specification and claims as originally filed, for example on page 19, lines 1 to 11.

The specification has been amended to capitalize trademarks and to refer to the compact discs created on January 27, 2004. Therefore, Applicants respectfully request withdrawal of the objections to the specification.

Applicants request entry of this amendment pursuant to 37 C.F.R. § 1.116 in that it places the application in condition for allowance or in better form for consideration on appeal.

1. Claim Rejection under 35 U.S.C. § 101:

Claims 2 and 4 to 7 were rejected under 35 U.S.C. § 101, because the claimed invention allegedly "lacks patentable utility due to its not being supported by a specific, substantial, and credible utility or, in the alternative, a well-established utility." Final Action at page 5. The Applicants respectfully traverse this rejection and contend that this rejection has been overcome by the arguments set forth in Applicants' previous response dated July 24, 2006. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 101.

2. Claim Rejection under 35 U.S.C. § 112, first paragraph:

Claims 2 and 4 to 7 were rejected under 35 U.S.C. § 112, first paragraph, allegedly because "the claimed invention lacks a patentable utility due to its not being supported by a specific, substantial, and credible utility or, in the alternative, a well-established utility ... one skilled in the art clearly would not know how to use the claimed invention. Final Action at page 12.

Applicants respectfully traverse this rejection and contend that this rejection has been overcome by the arguments set forth in Applicants' previous response with respect to the rejection under 35 U.S.C. § 101. Consequently, the rejection under 35 U.S.C. § 112, first paragraph, is improper and Applicants respectfully request reconsideration and withdrawal of this rejection.

3. Claim Rejection under 35 U.S.C. § 112, second paragraph:

Claims 2 and 4 to 7 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite, because "(t)he limitation 'an amino acid sequence of SEQ ID NO: 44,293' is confusing because the use of the indefinite article 'an' suggests that more than one sequences are (*sic*) present in SEQ ID NO: 44,293." Final Action at page 13. Although Applicants disagree that the claims are confusing, in order to advance prosecution, Applicants have amended the claims. Therefore, Applicants respectfully submit that the rejection under 35 U.S.C. § 112, second paragraph, is moot and request reconsideration and withdrawal.

4. Claim Rejections under 35 U.S.C. § 102:

Claims 2 and 4 to 7 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Alexandrov *et al.* (EP 1 033 405). Final Action at page 14. Applicants respectfully traverse this rejection.

Alexandrov *et al.* is not prior art to the claimed invention, which claims priority at least to May 6, 1999. *See*, Application Data Sheet, filed herewith. In other words, the claimed invention was not patented or described in a printed publication in this or a foreign country more than one year prior to the date of the application for patent in the United States. 35 U.S.C. § 102(b). Therefore, Applicants respectfully request withdrawal of this rejection.

Claims 2 and 4 to 7 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by La Rosa *et al.* (U.S. Pub. No. 2004/0214272 A1, publication of U.S. Pat. Appl. No. 10/425,115). *Id.* at page 15. Applicants respectfully traverse this rejection.

Patentability is not precluded for subject matter developed by another, which qualifies as prior art only under 35 U.S.C. § 102(e), where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. 35 U.S.C. § 103(c). The subject matter of La Rosa *et al.* and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. Therefore, Applicants respectfully submit that claims 2 and 4 to 7 are not anticipated by La Rosa *et al.* under 35 U.S.C. § 102(e) and respectfully request withdrawal of this rejection.

IV. CONCLUSION

In view of the foregoing amendments and remarks, the Applicants respectfully submit that the present application is now in condition for allowance, and notice of such is respectfully requested. The Examiner is encouraged to contact the undersigned at 202-942-5746 if any additional information is necessary for allowance.

Respectfully submitted,

Date: May 25, 2007

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